



## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### Initial Patent Applications

**ACTION:** Proposed collection; comment request

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed extension of an information collection: Initial Patent Applications.

**DATES:** Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments by any of the following methods:

- *E-mail:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0032 comment" in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to the attention of Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-7728; or by e-mail at [raul.tamayo@uspto.gov](mailto:raul.tamayo@uspto.gov). Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

#### SUPPLEMENTARY INFORMATION

## **I. Abstract**

The USPTO is required by Title 35 of the United States Code, including 35 U.S.C. 131, to examine applications for patents. The USPTO administers the patent statutes through various rules in Chapter 37 of the Code of Federal Regulations, including 37 CFR 1.16 through 1.84. Each patent applicant must provide sufficient information to allow the USPTO to properly examine the application to determine whether it meets the criteria set forth in the patent statutes and regulations for issuance as a patent. For example, the patent statutes and regulations require that an application for patent include the following information:

- 1) a specification containing a description of the invention and at least one claim defining the property right sought by the applicant;
- 2) a drawing(s) or photograph(s), where necessary, for an understanding of the invention;
- 3) an oath or declaration signed by the applicant; and
- 4) a filing fee.

The following types of patent applications are covered under the present information collection:

- New original utility, plant, design, and provisional applications,
- Continuation/divisional applications of international applications,
- Continued prosecution applications (design), and
- Continuations/divisionals and continuation-in-part applications of utility, plant, and design applications.

In addition, the present collection covers petitions to accept an unintentionally delayed priority or benefit claim, petitions under 37 CFR 1.47 (pre-Leahy-Smith America Invents Act (AIA)) to accept a filing by other than all of the inventors or a person not the inventor, petitions under 37 CFR 1.6(g) to accord an application under 37 CFR 1.495(b) a receipt date, and papers filed under 37 CFR 1.41(c), 1.41(a)(2) (pre-AIA), 1.48(d), 1.53(c)(2), and 1.53(c)(2) (pre-Patent Law Treaty (PLT) (AIA)) (the particular items covered under this collection are identified in more detail at Table 1 below).

Most applications for patent, including new utility, design, and provisional applications, can be submitted to the USPTO through EFS-Web. EFS-Web is the USPTO's system for electronically filing of patent correspondence and is accessible via the Internet on the USPTO web site. The Legal Framework for EFS-Web, available at [http://www.uspto.gov/patents/process/file/efs/guidance/New legal framework.jsp](http://www.uspto.gov/patents/process/file/efs/guidance/New%20legal%20framework.jsp), provides a listing of patent applications and documents permitted to be filed via EFS-Web and patent applications and documents not permitted to be filed via EFS-Web.

There are 69 forms in this collection. This total includes versions of the inventor's oath and declaration forms that were created to comply with the changes resulting from the AIA, e.g., forms AIA/01, AIA/02, etc., as well as pre-AIA versions of the oath and declaration forms, e.g., forms SB/01, SB/02, etc., and foreign language translations of the oath and declaration forms, e.g., forms AIA/01CN, SB/02CN, etc. Items in this collection that do not have forms associated with them include the petitions and the papers filed under 37 CFR 1.41(c), 1.41(a)(2) (pre-AIA), 1.48(d), 1.53(c)(2), and 1.53(c)(2) (pre-PLT (AIA)).

## **II. Method of Collection**

By mail, hand delivery, or facsimile (except that, in accordance with 37 CFR 1.6(d), the items covered under this collection that may be submitted by facsimile are limited to the petitions and the papers filed under 37 CFR 1.41(c), 1.41(a)(2) (pre-AIA), 1.48(d), 1.53(c)(2), and 1.53(c)(2) (pre-PLT (AIA))). Most of these items can also be submitted through EFS-Web.

### **III. Data**

*OMB Number:* 0651-0032

*Form Number(s):* PTO/SB/01, 01A, 02, 02A, 02B, 02CN, 02DE, 02ES, 02FR, 02IT, 02JP, 02KR, 02LR, 02NL, 02RU, 02SE, 03, 03A, 04, 06, 07, 14 EFS-Web, 16, 16 EFS-Web, 17, 29, 29A, and 101-110. This collection also includes the following AIA forms: PTO/AIA01 through AIA04, AIA08 through AIA11, AIA14 and 15, AIA18 and 19, and AIA01CN and 01DE, 01ES, 01FR, 01IT, 01JP, 01KR, 01NL, 01RU, 01SE, 02CN, 02DE, 02ES, 02FR, 02IT, 02JP, 02KR, 02NL, 02RU, and 02SE.

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Individuals or households; businesses or other for profits; not-for-profits institutions; and the Federal Government.

*Estimated Number of Respondents:* 470,403 responses per year. The USPTO estimates that approximately 130,313 of these responses will be from small entities. This estimate reflects a 25% small entity responses rate for all items in the collection, except for design-related items in the collection, for which a 50% small entity response rate is estimated. The USPTO also estimates that 406,995 of the responses will be filed electronically.

*Estimated Time Per Response:* The USPTO estimates that it takes the public approximately 30 minutes to 40 hours (0.50 to 40 hours) to complete this information, depending on the complexity of the request. This includes the time to gather the necessary information, prepare the application, petition, or paper submission, and submit the completed request to the USPTO. The USPTO calculates that, on balance, it takes the same amount of time to complete these steps and submit items to the USPTO, whether the applicant submits in paper form or electronically.

*Estimated Total Annual Respondent Burden Hours:* 12,776,282 hours per year.

*Estimated Total Annual Respondent Cost Burden:* \$5,238,275,620 per year. The USPTO expects that all of the information in this collection will be prepared by an attorney. Using the professional hourly rate of \$410 for attorneys in private firms, the USPTO estimates that the total respondent cost for this collection is \$5,238,275,620 per year.

**Table 1: Total Hourly Burden**

IC #	Item	Estimated Time for Response (Hours) (a)	Estimated Annual Responses (b)	Estimated Annual Burden Hours (a) x (b) = (c)	Rate (\$/hr) (d)	Estimated Annual Burden (c) x (d) = (e)
1	Original New Utility Applications – No Application Data Sheet	40	300	12,000	\$410	\$4,920,000.00
1	Electronic Original New Utility Applications – No Application Data Sheets	40	13,700	548,000	\$410	\$224,680,000.00
2	Original New Plant Applications – No Application Data Sheet	9	300	2,700	\$410	\$1,107,000.00
3	Original New Design Applications – No Application Data Sheet	7	100	700	\$410	\$287,000.00
3	Electronic Original Design Applications – No Application Data Sheet	7	3,200	22,400	\$410	\$9,184,000.00
4	Original New Utility Applications –	40	5,400	216,000	\$410	\$88,560,000.00

	Application Data Sheet					
4	Electronic Original New Utility Applications – Application Data Sheet	40	265,600	10,624,000	\$410	\$4,355,840,000.00
5	Original New Plant Applications – Application Data Sheet	9	1,100	9,900	\$410	\$4,059,000.00
6	Original New Design Applications – Application Data Sheet	7	900	6,300	\$410	\$2,583,000.00
6	Electronic New Design Applications – Application Data Sheet	7	42,800	299,600	\$410	\$122,836,000.00
7	Continuation/Divisional of an International Application	4	200	800	\$410	\$328,000.00
7	Electronic Continuation/Divisional of an International Application	4	10,800	43,200	\$410	\$17,712,000.00
8	Utility Continuation/Divisional Applications	4	1,500	6,000	\$410	\$2,460,000.00
8	Electronic Utility Continuation/Divisional Applications	4	73,500	294,000	\$410	\$120,540,000.00
9	Plant Continuation/Divisional Application	3	200	600	\$410	\$246,000.00
10	Design Continuation/Divisional Application	1	100	100	\$410	\$41,000.00
10	Electronic Design Continuation/Divisional Applications	1	2,900	2,900	\$410	\$1,189,000.00
11	Continued Prosecution Applications – Design (Request Transmittal and Receipt)	1	20	20	\$410	\$8,200.00
11	Electronic Continued Prosecution Applications – Design (Request Transmittal and Receipt)	1	880	880	\$410	\$360,800.00
12	Utility Continuation-in-Part Applications	20	300	6,000	\$410	\$2,460,000.00
12	Electronic Utility Continuation-in-Part Applications	20	13,300	266,000	\$410	\$109,060,000.00
13	Plant Continuation-in-Part Applications	5	1	5	\$410	\$2,050.00
14	Design Continuation-in-Part Applications	3	20	60	\$410	\$24,600.00
14	Electronic Design Continuation-in-Part Applications	3	830	2,490	\$410	\$1,020,900.00

15	Provisional Application for Patent Cover Sheet	18	4,000	72,000	\$410	\$29,520,000.00
15	Electronic Provisional Application for Patent Cover Sheet	18	184,000	331,200	\$410	\$135,792,000.00
16	Petition to Accept Unintentionally Delay Priority/Benefit Claim	1	100	100	\$410	\$41,000.00
16	Electronic Petition to Accept Unintentionally Delayed Priority/Benefit Claim	1	3,400	3,400	\$410	\$1,394,000.00
17	Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than all the Inventors or a Person not the Inventor	1	1	1	\$410	4410
17	Electronic Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than all the Inventors or a Person not the Inventor	1	50	50	\$410	\$20,500.00
18	Petition under 37 CFR 1.6(g) to According the Application under 37 CFR 1.495(b) a Receipt Date	0.50	1	1	\$410	\$410.00
19	<p>Papers filed under the following:</p> <p>1.41(c) or 1.41(a)(2) (pre-AIA) – to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by 37 CFR 1.51 (c)(1) in a provisional application.</p> <p>1.48(d) – for correction of inventorship in a provisional application.</p> <p>1.53 (c)(2) or 1.53(c)(2) (pre-PLT (AIA)) – to convert a nonprovisional application filed under 1.53(b) to a provisional application filed under 1.53(c)</p>	0.75	200	150	\$410	\$61,500.00
19	Electronic Papers filed under the following:	0.75	6,300	4.725	\$410	\$1,937,250.00

	1.41(c) or 1.41(a)(2) (pre-AIA) – to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by 37 CFR 1.51 (c)(1) in a provisional application.  1.48(d) – for correction of inventorship in a provisional application.  1.53 (c)(2) or 1.53(c)(2) (pre-PLT (AIA)) – to convert a nonprovisional application filed under 1.53(b) to a provisional application filed under 1.53(c)					
<b>Total</b>			<b>470,403</b>	<b>12,776,282</b>		<b>\$5,238,275,620.00</b>

*Estimated Total Annual Non-hour Respondent Cost Burden: \$1,195,268,438.53.*

There is no maintenance, operation, capital start-up, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of postage and drawing costs, as well as filing fees.

Although the USPTO prefers that the items in this collection be submitted electronically, the items may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that the average cost for sending a patent application by Priority Mail Express® will be \$19.99 and that up to 14,441 may be mailed to the USPTO, resulting in \$288,675.59 in the postage costs.

The USPTO estimates that the petitions and other papers covered under this collection, if submitted by mail, will be sent by first-class mail; a postage rate of \$0.94. The USPTO estimates that up to 301 submissions may be mailed per year, thus resulting in \$282.94 in first-class mailing costs.

Patent applicants can submit drawings with the applications covered under this collection. As a basis for estimating the drawing costs, the USPTO expects that all applicants will have their drawings prepared by patent illustration firms. Estimates for the drawings can vary greatly, depending on the number of figures that need to be produced, the total number of pages for the drawings, and the complexity of the drawings. Because there are many variables involved, the USPTO is using the average of the cost ranges found for the application drawings to derive the estimated cost per sheet that is then used to calculate the total drawing costs.

The utility, plant, and design continuation and divisional applications use the same drawings as the initial filings, so they are not included in these totals. The continuation-in-part applications may use some of the same drawings as the initial applications and some new drawings may be submitted, so those numbers are included in these estimates. The drawings for the continued prosecution applications also are included in the drawing cost totals.

The USPTO estimates that total drawing costs is \$608,610,280. The break-down of costs for utility, design, plant, and provisional drawings is broken down in table 2 below.

**Table 2: Drawing Cost to Respondents**

IC #	Item	Estimated Annual Response (a)	Drawing Cost Amounts (\$) (b)	Drawing Totals (c) (a) x (b)
	Utility Application Drawings	298,800	\$1,150.00	\$343,620,000.00
	Design Application Drawings	47,120	\$1,930.00	\$90,941,600.00
	Plant Application Drawings (Photographs)	1,601	\$680.00	\$1,088,680.00
	Provisional Application Drawings	150,400	\$1,150.00	\$172,960,000.00
	<b>Total Drawing Costs</b>	<b>497,921</b>	-----	<b>\$608,610,280.00</b>

In this collection, there is also an annual (non-hour) cost burden in the way of filing fees. Many of the fees had previously been housed within information collection 0651-0072 (America Invents Act Section 10 Patent Fee Adjustments), but these fees have been returned to this collection. The total estimated filing costs for this collection is \$586,369,200 and is detailed in table 3 below.

**Table 3: Total Non-hour Respondent Cost**

<b>IC #</b>	<b>Item</b>	<b>Estimated Annual Response (a)</b>	<b>Amount (b)</b>	<b>Totals (c) (a) x (b)</b>
1, 4	Basic Filing fee – Utility (Paper Filing – Also Requires Non-Electronic Filing Fee Under 1.16(t)) (large entity)	235,200	\$280.00	\$65,856,000.00
1, 4	Basic Filing fee – Utility (Paper Filing – Also Requires Non-Electronic Filing Fee Under 1.16(t)) (small entity)	80,500	\$140.00	\$11,270,000.00
1, 4	Basic Filing fee – Utility (Paper Filing – Also Requires Non-Electronic Filing Fee Under 1.16(t)) (micro entity)	17,000	\$70.00	\$1,190,000.00
1, 4	Utility Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (large entity)	13,500	\$400.00	\$5,400,000.00
1, 4	Utility Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (small entity)	6,500	\$200.00	\$1,300,000.00
1, 4	Utility Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (micro entity)	160	\$100.00	\$16,000.00
1, 4	Utility Search Fee (large entity)	233,900	\$600.00	\$140,340,000.00
1, 4	Utility Search Fee (small entity)	79,600	\$300.00	\$23,880,000.00
1, 4	Utility Search Fee (micro entity)	16,700	\$150.00	\$2,505,000.00
1, 4	Utility Examination Fee (large entity)	234,900	\$720.00	\$169,128,000.00
1, 4	Utility Examination Fee (small entity)	80,000	\$360.00	\$28,800,000.00
1, 4	Utility Examination Fee (micro entity)	16,800	\$180.00	\$3,024,000.00
2, 5	Basic Filing Fee – Plant (large entity)	570	\$180.00	\$102,600.00
2, 5	Basic Filing Fee – Plant (small entity)	580	\$90.00	\$52,200.00
2, 5	Basic Filing Fee – Plant (micro entity)	10	\$45.00	\$450.00
2, 5	Plant Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (large entity)	0	\$400.00	\$0.00
2, 5	Plant Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (small entity)	0	\$200.00	\$0.00
2, 5	Plant Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets	0	\$100.00	\$0.00

	(micro entity)			
2, 5	Plant Search Fee (large entity)	570	\$380.00	\$216,600.00
2, 5	Plant Search Fee (small entity)	575	\$190.00	\$109,250.00
2, 5	Plant Search Fee (micro entity)	10	\$95.00	\$950.00
2, 5	Plant Examination Fee (large entity)	560	\$580.00	\$324,800.00
2, 5	Plant Examination Fee (small entity)	570	\$290.00	\$165,300.00
2, 5	Plant Examination Fee (micro entity)	10	\$145.00	\$1,450.00
3, 6	Basic Filing Fee – Design (large entity)	20,100	\$180.00	\$3,618,000.00
3, 6	Basic Filing Fee – Design (small entity)	17,900	\$90.00	\$1,611,000.00
3, 6	Basic Filing Fee – Design (micro entity)	4,700	\$45.00	\$211,500.00
3, 6	Basic Filing Fee – Design (CPA) (large entity)	550	\$180.00	\$99,000.00
3, 6	Basic Filing Fee – Design (CPA) (small entity)	340	\$90.00	\$30,600.00
3, 6	Basic Filing Fee – Design (CPA) (micro entity)	30	\$45.00	\$1,350.00
3, 6	Design Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (large entity)	115	\$400.00	\$46,000.00
3, 6	Design Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (small entity)	60	\$200.00	\$12,000.00
3, 6	Design Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (micro entity)	1	\$100.00	\$100.00
3, 6	Design Search Fee (large entity)	20,400	\$120.00	\$2,448,000.00
3, 6	Design Search Fee (small entity)	18,000	\$60.00	\$1,080,000.00
3, 6	Design Search Fee (micro entity)	4,600	\$30.00	\$138,000.00
3, 6	Design Examination Fee (large entity)	20,200	\$460.00	\$9,292,000.00
3, 6	Design Examination Fee (small entity)	17,800	\$230.00	\$4,094,000.00
3, 6	Design Examination Fee (micro entity)	4,600	\$115.00	\$529,000.00
15	Provisional Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (large entity)	4,300	\$400.00	\$1,720,000.00
15	Provisional Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (small entity)	4,600	\$200.00	\$920,000.00
15	Provisional Application Size Fee – for Each Additional 50 Sheets That Exceeds 100 Sheets (micro entity)	135	\$100.00	\$13,500.00
15	Provisional Application Filing Fee (large entity)	56,100	\$260.00	\$14,586,000.00
15	Provisional Application Filing Fee (small entity)	68,800	\$130.00	\$8,944,000.00
15	Provisional Application Filing Fee (micro entity)	30,000	\$65.00	\$1,950,000.00
16	Surcharge – Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (large entity)	86,400	\$140.00	\$12,096,000.00
16	Surcharge – Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (small entity)	38,200	\$70.00	\$2,674,000.00
16	Surcharge – Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (micro entity)	4,500	\$35.00	\$157,500.00
16	Surcharge – Late Provisional Filing Fee or Cover Sheet (large entity)	1,800	\$60.00	\$108,000.00

16	Surcharge – Late Provisional Filing Fee or Cover Sheet (small entity)	2,700	\$30.00	\$81,000.00
16	Surcharge – Late Provisional Filing Fee or Cover Sheet (micro entity)	3,000	\$15.00	\$45,000.00
17	Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than all the Inventors or a Person not the Inventor (large entity)	1	\$200.00	\$200.00
17	Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than all the Inventors or a Person not the Inventor (small entity)	1	\$100.00	\$100.00
17	Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than all the Inventors or a Person not the Inventor (micro entity)	1	\$50.00	\$50.00
17	Electronic Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than the Inventors or a Person not the Inventor (large entity)	38	\$200.00	\$7,600.00
17	Electronic Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than the Inventors or a Person not the Inventor (small entity)	9	\$100.00	\$900.00
17	Electronic Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than the Inventors or a Person not the Inventor (micro entity)	3	\$50.00	\$150.00
18	Petition under 37 CFR 1.6(g) to accord the Application under 37 CFR 1.495(b) a Receipt Date	1	\$0.00	\$0.00
	Each Independent Claim in Excess of Three (large entity)	55,100	\$420.00	\$23,142,000.00
	Each Independent Claim in Excess of Three (small entity)	20,500	\$210.00	\$4,305,000.00
	Each Independent Claim in Excess of Three (micro entity)	1,900	\$105.00	\$199,500.00
	Each Claim in Excess of 20 (large entity)	362,900	\$80.00	\$29,032,000.00
	Each Claim in Excess of 20 (small entity)	199,400	\$40.00	\$7,976,000.00
	Each Claim in Excess of 20 (micro entity)	12,600	\$20.00	\$252,000.00
	Multiple Dependent Claim (large entity)	1,200	\$780.00	\$936,000.00
	Multiple Dependent Claim (small entity)	800	\$390.00	\$312,000.00
	Multiple Dependent Claim (micro entity)	90	\$195.00	\$17,550.00
	<b>Total Filing Fee</b>	<b>2,102,690</b>	<b>-----</b>	<b>\$586,369,200.00</b>

The USPTO estimates that the total annual (non-hour) respondent cost burden for this collection in the form of postage costs, drawing costs, and filing fees is estimated to be approximately \$1,164,394,638.53 per year.

#### IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the USPTO's request for OMB approval. All comments will become a matter of public record.

Comments are invited on:

- a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- b) The accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;
- c) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- d) Ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Dated: February 9, 2017

**Rhonda Foltz**

*Office of Information Management Services Director, OCIO*

*United States Patent and Trademark Office*

Billing Code 3510-16-P

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